

PHILADELPHIA MULTIFAMILY HOUSING HUB NEWS



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Mark-to-Market Rehab. Escrows

The Office of Affordable Housing Preservation (OAHP) has issued guidance for addressing defaults in completion of mark-to-market rehabilitation escrows. The following is the new guidance that has been provided to HUD field staff:



*REAC inspections for restructured properties undergoing rehabilitation will no longer be deferred beyond 12 months, except when extension of the Rehabilitation Escrow Deposit Agreement (REDA) has been approved by OAHP. Owners with M2M Rehab Escrows will be informed, in writing, of the entire policy for late escrows.

*Owners will no longer be able to claim exemptions from REAC inspections due to ongoing rehabilitation.

*Owner performance on rehabilitation loans will be linked with previous participation records. Late escrows may result in a management finding by HUD. After notice is provided to the owner, a "flag" may be placed on any owner or affiliated manager associated with a late escrow unless OAHP has approved an extension.

*Timely rehab escrow completion is a mandatory performance requirement. Late escrows without an approved extension may result in suspension of Capital Recovery Payments (CRP) to the owner, and unless cleared before payable, forfeiture of an Incentive Performance Fee Payment (IPF).

*HAP contract rent levels are subject to review and reduction where rent differentials can be linked to specific repairs/improvements funded in the rehab escrow, but not completed (without an approved escrow extension).

*Late escrows may trigger an elective referral to the Departmental Enforcement Center, by the Hub Director, for evaluation of more serious remedies.

*The Rehabilitation Escrow Administration Tracking (REAT) system will e-mail the status of each Rehab Escrow (i.e., start date, original escrow amount, current balance, escrow closings, etc.) to the respective HUD Project Manager.

Electronic Invoices for Sect. 236 IRPs

Mortgagee Letter 2005-20, dated May 3, 2005, announced the automation of invoice processing for the Section 236 Rental Housing Assistance Program- Interest Reduction Payments (IRP). Currently, Section 236 IRP servicers mail invoices to HUD's Office of Chief Financial Officer (OCFO) to obtain payment. This is a manually intensive process. The OCFO has decided to automate this payment process using its standard payment system (eLOCCS) to accept receipt of electronic invoices via the Internet. The OCFO's goal is to streamline the payment process to improve efficiency and ensure accuracy.

Your participation in this new payment process is not mandatory; however, it is encouraged. The expected benefits of this enhancement include real-time approval of payment requests, access to payment schedules and history, and e-mail notifications of anticipated deposit dates. On a monthly basis, your participation will require you to log onto a secure website and upload a payment request file.



Settlement Against Milwaukee Landlord

HUD, EPA and the U.S. Attorney's Office for the Eastern District of Wisconsin announced, on May 2, 2005, a settlement against a landlord for failing to warn tenants that their homes may contain hazards due to the presence of deteriorating lead-based paint. The civil settlement announced today is the result of extensive coordination among local health officials and federal investigators and is the first such joint enforcement action in the State of Wisconsin.



Will J. Sherard and his management company, W.J. Sherard Realty Company, currently own and manage 39 properties, containing approximately 65 rental units, primarily in the inner city of Milwaukee. The City of Milwaukee had previously ordered Sherard to correct lead hazards in some of his units after local health officials identified 12 children who were lead poisoned while they lived in homes he owned or managed. As a result of the settlement, Sherard and his management company are required to test for lead-based paint hazards and replace the windows in all his properties within two years. In addition, Sherard must completely eliminate all lead-based paint hazards in the units, common areas, and exteriors of his properties within four years, completing those units with young children first, and pay a \$15,000 penalty. Under the terms of the settlement, Sherard did not admit to any wrongdoing.

"Today's announcement should be a warning to landlords who ignore their legal and moral responsibilities to their tenants," said HUD Secretary Alphonso Jackson. "HUD's enforcement is specifically targeted against landlords who operate without regard to the health and safety of families living in their properties."

The allegations in this case involve violations of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the Lead Disclosure Rule. The law and its regulations require sellers and landlords of housing built before 1978 to provide each purchaser or tenant with a lead information pamphlet, any available information concerning lead-based paint or lead-based paint hazards in the property, and a Lead Warning Statement to be signed by the parties. Sellers are also required to provide purchasers with an opportunity to conduct a lead-based paint inspection and/or risk assessment at the purchaser's request.

The settlement represents the first joint Lead Disclosure Rule enforcement action in Wisconsin.

HUD, EPA and the Department of Justice are pursuing similar joint enforcement efforts around the nation. To date, these joint enforcement actions have affected more than 177,524 housing units across the country resulting in \$747,882 in civil penalties. In addition, a total of \$488,750 have been paid directly to community-based health projects to reduce lead poisoning and, in settling their cases, landlords have committed to pay an estimated \$24 million to address lead-based paint hazards in the affected units.

Section 202 Refinancing

HUD is now allowing the use of Section 202 replacement reserve funds to fund third party lender reports for Section 223(f) refinancing transactions.



HUD Program Center staff will carefully review the entire replacement reserve needs analysis and satisfy themselves that the estimates are reasonable. In most cases the Section 202 owner will have a Comprehensive Needs Assessment (CNA) that has been updated from time to time. The following restrictions will apply:

*Replacement Reserve funds may be withdrawn only by the Owner, and only to pay for appraisal, PCNA, or other third party Lender reports directly applicable to the Section 202 project being refinanced.

*Withdrawal may not exceed \$20,000 per project or actual cost whichever is lower.

*The Owner must provide a current 10-year Replacement Reserve schedule.

*The requested withdrawal must not lower the end-of-year Replacement Reserve Account balance below \$500 per dwelling unit at any time over the 10-year period.

*Only the Owner may withdraw funds from the Replacement Reserve for third party Lender reports. The Owner may not withdraw funds from the Replacement Reserve to pay for pre-development costs.

*These procedures are available only to Section 202 projects to be refinanced pursuant to Section 223(f), and not to refinancings under other Sections of the National Housing Act or conventionally refinanced projects.

MAP Update

A response to a Frequently Asked Question (Chapter 5 Architectural Analysis) was posted to the MAP web site on May 4, 2005.

Specifically, the response addressed conflicting instructions regarding the correction of Fair Housing Act violations for refinancing under Section 223(f)- whether they must be completed before or after closing.

The correction of Fair Housing Act violations may be either Critical or Non-Critical repairs. It is the responsibility of the Needs Assessor to determine the status of each correction. Any Fair Housing Act correction that poses a direct threat to life and safety (e.g., entry door too narrow for wheelchair passage) must be treated as a Critical Repair and corrected before closing, along with other Critical Repairs.

However, any Fair Housing Act correction that is not a direct threat to life and safety (e.g., a wheelchair turning radius that is a fraction too small) may be treated as a Non-Critical Repair, which can be corrected up to one year after closing.

The complete response can be viewed at the following website: www.hud.gov/offices/hsg/mfh/map/mapfaq.pdf.

Owner Liability for Unauthorized Occupants



A California court, in *Valencia v. Michaud*, refused to dismiss a lawsuit filed by the mother of a stabbing victim against a landlord who failed to get rid of an unauthorized occupant.

The court ruled that a jury must determine if the landlord was liable for the attack for failing to follow his policy for dealing with unauthorized occupants (i.e., asking them to leave, contacting the police, etc.).

This lawsuit underscores the fact that a landlord may be held liable for the actions of an unauthorized occupant who hurts another resident or damages property.



Aging in Place

HUD's periodical, *Cityscape*, has published an informative study, "Aging in Place." The report was written by Dr. Vera Prosper, New York State Office for the Aging, and addresses the aging in place phenomena that is facing providers of multifamily housing. While the report focuses on multifamily projects in New York City and New York State, its conclusions are universal.



Ms. Prosper concluded that "housing, aging, and health policymakers should 1. formally acknowledge multifamily housing as a third major retirement housing alternative of older people, 2. recognize the cost and delivery-service efficiencies inherent in addressing the needs of congregated groups of older people in these developments, 3. jointly acknowledge and support the role that housing managers and other housing staff play in the long-term care delivery system, and 4. collaborate in making the multifamily living environment one that supports successful aging in place. The benefits of such an approach will accrue to the tenants (increased well-being), the housing owners (better upkeep and reduced deterioration of the physical housing stock), and site managers (reduced job stress, burnout, and turnover), and the long-term care system (a cost-effective alternative for the burgeoning elderly population)."

To read the complete 28-page report, visit the following web address: www.huduser.org/periodicals/cityscape/vol7num1/ch5.pdf.



Loan Sale

HUD will be conducting Loan Sale 2005-2 on September 13, 2005. A total of 22 unsubsidized mortgages throughout the nation will be offered. One of these is Horizon Senior Care in Pittsburgh, PA.

Draft Handbook

A draft of Change 2 to Handbook 4350.3 REV-1, Occupancy Requirements for Subsidized Multifamily Housing Programs, has been posted for comments at www.hud.gov/offices/hsg/hsgmulti.cfm.

Active Partner Performance System

Effective October 11, 2005, all principals in HUD multi-family mortgage and project-based subsidy programs must submit electronic Previous Participation Certificates, rather than hard copies (i.e., HUD Forms 2530), using the Active Partner Performance System- a secure Internet-based application.



The new rule, contained in Federal Register Vol. 70, No. 70, dated April 13, 2005 also clarifies the types of transactions that require the completion of a Previous Participation Certificate. These transactions are as follows: application for mortgage insurance; application for Section 202/811 fund reservation; transfer of physical assets; assumption of subsidy contracts; change of ownership; change of approved lessee; bid to purchase a foreclosed HUD-project; bid to purchase a Secretary-Held project; bid to purchase a mortgage note held by the Commissioner; substitution of new principals; acquisition of project by limited partner, stockholder, or any principal of additional interests resulting in a total interest of at least 25% (partners) and 10% (non-partners); acquisition of project by inheritance or court decree; and first request for a reservation of funds for assistance payments for projects in which 20% or more of the units are to receive a subsidy.

There will be a six-month implementation period to allow participants to load their organizational data. Each participant will be responsible for the maintenance of its data.

No electronic 2530 applications will be accepted at this time. Participants can access APPS from the secure connection over the Internet. Existing system coordinators can assign rights in the secure connection to themselves, as well as to users, for purposes of loading participant data.

Training materials for participants, including the complete User's Guide, are available on HUD's Internet site at: www.hud.gov/offices/hsg/mfh/apps/appsmfhm.cfm.

You can also access the April 13, 2005 Federal Register at the following address: <http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/pdf/05-7351.pdf>.

New Computer Learning Center

The doors to The Lifelong Learning Center at Brookside Terrace, a 220 unit multifamily housing complex located on Mill Street in Newton, NJ, officially opened on May 20, 2005. The Center is the first of its kind in Sussex County and the 51st one in New Jersey.



The First Presbyterian Church of Sparta, as part of its community outreach program, managed the project and provided \$10,700 in funding. Other contributors were: The Senior Quality of Life Foundation which donated two computers, Creative Networking Concepts of Sussex which designed and installed the lab, Selective Insurance which donated the work stations and contributed \$2,400, and Tellurian Network which provided the high speed internet for the Center.

The Center has six workstations that house Dell computers with Internet access and volunteers to provide training. An additional computer is for an administrator, 55 and older, who will be hired to work for about 20 hours per week.

The Center hosts such programs as: Adult and Youth Education, GED/High School Equivalency Certificate Programs, Family Education, After School Programs, Job Skills and Retention, Senior Services, and Internet Access.

Through such programs, the Center plans to carry out its mission of strengthening the community and enhancing the quality of life for its residents by fostering a lifelong learning environment and by providing access to technology as an educational and training tool. With access to these learning centers, residents can find new or better employment, increase their incomes or go to college.

Closings

The following closings occurred in July: *Insured*- PA: Creekview Apts., Oakleaf Personal Care, and Cobbs Creek; NJ: Wittenberg Manor; and WV: Vandalia Terrace; and *Section 202/811*- PA: Pensdale, Creedmoor Court, and Mountainview House; NJ: Preferred Supportive Housing 2, Readington Consumer Home; and WV: Green Gables and Oak Tree.

